

AFTER THE HEARING

1. Appeal

The decision cannot be appealed to someone else in the City. An aggrieved party may pursue the matter further, at their expense, in Olmsted County District Court by writ of certiorari. You should consult with a lawyer about how to do that.

2. Failure to Pay

If you do not pay the fine, the City has the authority to do one or more of the following:

- Add late payment fee of 10 percent of the fine may be assessed each month the fine remains unpaid. After notice and a right to a hearing, this amount fine will be added to your property tax statement as a special assessment if you own property in the City and it was the subject of the violation;
- Deny an application for a City issued license or permit that is associated with the violation;
- Start a criminal prosecution against you in Olmsted County District Court charging you with the underlying violation.

3. Assessment of Civil Fines For Property-Related Violations

In addition to any other remedies provided, an unpaid civil fine imposed for property-related violations may be assessed against:

- Property which was the subject matter or related to the subject matter of the civil fine; or
- Property which was the location of an activity, proposed use, delivery of city service or other circumstance which resulted in the civil fine.

Prior to any assessment for an unpaid civil fine, the City Clerk shall seek voluntary payment of the fine by notifying the owner of the property in writing of the fine imposed.

The unpaid civil fine and late fee, including the administrative charge, together with interest thereon at the maximum lawful rate permitted, against said lot or parcel together with a description of the premises and the name of the supposed owner, shall be certified to the County Auditor and shall be collected in the same manner as taxes or special assessments against the premises. The charge shall be a perpetual lien on the premises until paid. Prior to certification to the County Auditor, the owner shall be given written notice of the proposed assessment and be provided an opportunity to be heard before the Common Council.

An administrative charge of \$25.00 shall be due upon the mailing of the notice of proposed assessment.

CITY OF ROCHESTER



ADMINISTRATIVE FINE ENFORCEMENT CITIZEN'S HANDBOOK



CITY CLERK'S OFFICE

201 4TH STREET S.E.

ROCHESTER, MN 55904

TEL: 507-328-2900

LAST UPDATED: JANUARY 5, 2012

INTRODUCTION

On November 2, 2009, the Rochester City Council approved the Administrative Fine Enforcement Process as an alternate method of enforcement for City Ordinances and some State Statute violations. The process is intended to be informal and less intimidating to alleged violators. The following City Ordinance and State Statute Violations will now be handled by Administrative Fines.

City Ordinance

- Alcoholic Beverage Regulations
- Animal Regulations
- Noise Regulations
- Park Regulations
- Peace Plaza Regulations
- Public Nuisances
- Refuse Collection & Disposal
- Smoking Regulations
- Gambling Regulations
- Vending Carts
- Street & Sidewalk Regulations
- Sidewalk Maintenance
- Repeat Nuisance Regulations

State Statute

- Speeding of less than 10 MPH over posted limits
- Equipment Violations
- Stop Line Violations

This booklet is intended to explain the process.

You may obtain copies of the City Ordinance section enacting the Administrative Fine Enforcement Program or any specific Rochester ordinance on the City's website at www.rochestermn.gov or by calling the City Clerk's Office.

AFTER RECEIVING A CITATION

When you receive an Administrative Fine, you must respond within ten (10) calendar days by either (1) paying the fine, or (2) requesting a hearing.

If you do nothing, a late payment fee of 10 percent of the fine may be assessed for a 30-day period and for a 60-day period that the fine remains unpaid after the due date. The amount of the civil fine and the late payment fee must be paid in full. No partial payments of the civil fine or the late payment fee will be accepted.

An unpaid civil fine imposed for property-related violations may be assessed against the property which was the subject matter or related to the subject matter of the civil fine or property which was the location of an activity, proposed use, delivery of city service or other circumstance which resulted in the civil fine.



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PAYING THE FINE

The City has established various fine amounts for each City Ordinance violation. The fine amount for a State Statute Violation is \$60.00.

If you wish to pay the fine, you must pay with cash, check or a money order. A check or money order must be payable to the City of Rochester for the correct amount. You may pay in person at City Hall or mail a copy of the Administrative Fine with the payment to:

City Clerk
Administrative Fine
Enforcement Program
201 Fourth Street S.E.
Rochester, Minnesota 55904

The fine is due to the City within ten (10) days of the citation.

Payment of the civil fine constitutes admission of the violation.

If you request a hearing, the City Clerk will send you a confirmation, in person or by mail, of the date, time and location and the name of the hearing officer for your hearing at least ten (10) days in advance of the scheduled hearing unless a shorter time is accepted by all parties. Other cases may be scheduled at the same time and you may have to wait. The City Clerk’s Office must be notified in advance if you will be represented by legal council.

BEFORE THE HEARING IS HELD

1. Costs of Mediation and Hearing

The costs of the hearing are shared equally by the City and requestor for all City Ordinance violations. At the time the hearing is requested, you will be provided an estimate of the cost of the requesting party’s share of the hearing cost. The requestor must provide payment of that estimated cost to the City before the City will schedule a hearing.

If you can demonstrate indigence, such as your receipt of means tested governmental benefits or a demonstrated lack of assets or current income, the Hearing Officer has the authority to reduce the requesting person’s share of the costs. Proof shall be presented to the Hearing Officer by the City Clerk’s Office for determination of the amount of prepayment in advance of the hearing.

The City and the violator shall be each entitled to only one continuance of a scheduled hearing. Where the person requesting the hearing does not attend and fails to request a continuance of the hearing at least 48 hours in advance of the scheduled hearing, all costs incurred by the City attributable to the requested hearing shall be charged to the requesting party and deducted from any prepayment made.

2. Change of the Assigned Hearing Officer

The hearing officer is chosen from an approved list of private lawyers who are not City employees. You may not contact the hearing officer before the hearing to discuss your case. The person requesting the hearing shall have the right to request, no later than five days before the date of the hearing, that the assigned hearing officer be removed from

the case. One such request for each case will be granted automatically. A subsequent request shall be directed to the assigned hearing officer who will decide whether he or she cannot fairly and objectively review the case. If such a finding is made, the hearing officer shall remove himself or herself from the case and another hearing officer shall be assigned.

THE HEARING

1. Failure To Appear

If you fail to appear for the hearing and failed to request a continuance of the hearing at least 48 hours in advance of the scheduled hearing, all costs incurred by the City attributable to the requested hearing shall be charged to the requesting party and deducted from any prepayment made.

2. Hearing Procedure

The hearing will be informal without strict rules of evidence. At the hearing, parties shall have the opportunity to present testimony and question any witnesses. The hearing officer shall tape record the hearing, receive testimony and exhibits, and maintain a full record of the hearing. The hearing officer shall receive and give weight to evidence, including hearsay evidence, which possesses probative value commonly accepted by reasonable and prudent people in the conduct of their affairs.

3. Decision

The decision of the hearing officer shall be in writing and will contain findings of fact and

conclusions of law. The written report shall be served on the parties by mail within 20 days of the last date of the hearing.

If the hearing officer decides that you violated the City Ordinance or State Statute, the hearing officer has the authority to:

- a) Determine whether a violation occurred;
- b) Dismiss the administrative citation;
- c) Impose the scheduled civil fine; or
- d) Reduce or waive a scheduled civil fine either unconditionally or upon compliance with appropriate conditions.

In deciding which action to take, the hearing officer may consider any or all of the following factors:

- a) The duration of the violation;
- b) The frequency or reoccurrence of the violation;
- c) The seriousness of the violation;
- d) The history of the violation;
- e) The violator’s conduct after issuance of the notice of hearing;
- f) The good faith effort by violator to comply;
- g) The economic impact of the fine on the violator;
- h) The impact of the violation upon the community;
- i) Prior record of city code violations; or
- j) Any other factors appropriate to a just result.

The hearing officer cannot impose a fine greater than the established fine, except that the hearing officer can impose a fine for each day that the violation continued if:

- a) The violation caused a serious threat of harm to the public health, safety or welfare; or
- b) The accused intentionally and unreasonably refused to comply with the code requirement. The hearing officer’s decision and supporting reasons for continuing violations must be in writing.